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February 14, 2005

Inspector General Gordon S. Heddell  
Office of the Inspector General  
U. S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

Dear Mr. Heddell:

I request that your office begin an immediate investigation into the negotiation and formulation of the Department of Labor's recently disclosed compliance agreement with Wal-Mart.

As reported in the New York Times, the Department of Labor entered into an agreement with Wal-Mart in early January, settling 24 violations of child labor laws. It is reported that, under this agreement, the Department of Labor will give Wal-Mart 15 days' notice of any wage and hour complaint before conducting an investigation. While Assistant Secretary Victoria Lipnic asserts that the advance notice provision applies only to child labor allegations, a former "top wage official" told the New York Times, "The language appears to go beyond child labor allegations and cover all wage and hour allegations. It appears to put Wal-Mart in a privileged position that to my knowledge no other employer has."

The New York Times article reports that the notice will be given "before the department investigates any other 'wage and hour' accusations, like failure to pay minimum wage or overtime." Additionally, a January 10, 2005, e-mail from the director of the Little Rock, Arkansas, Wage and Hour office does not limit the advance notice to child labor violations, saying: "Wage & Hour will not open an investigation of Wal-Mart without first notifying Wal-Mart's main office and allowing them an opportunity to look at the alleged violations and, if valid, correct the problem."

The compliance agreement was kept secret for a full month and was only disclosed when the Department of Labor was questioned by a New York Times reporter. The Department made no

public announcement of this extraordinary and wide-ranging agreement. Most importantly, it appears that Wal-Mart employees were not informed of the agreement prior to this New York Times article and were given no notice that, if they sought assistance from the Department of Labor for wage and hour violations by their employer, the Department of Labor would direct those complaints to Wal-Mart corporate headquarters in Arkansas for review.

In short, the terms of and secrecy surrounding the compliance agreement with Wal-Mart raises serious questions about the propriety of this deal. Has the Department of Labor provided preferential treatment to the nation's largest private sector employer with an infamous labor record? Why was the deal kept secret for so long?

I ask that your office conduct a complete and thorough review of the negotiation and formulation of this compliance agreement and the circumstances surrounding it. This review should include:

1. What was the rationale for keeping the agreement secret for a full month after the new case handling procedures – including the channeling of employees' complaints to Wal-Mart's main office – apparently had been implemented?
2. What were the circumstances leading to the negotiation of this settlement on these terms and how was it negotiated?
3. What is the scope of the 15 days' advance notice provision, and what is the justification of that scope?
4. When were Wal-Mart employees notified of the new case handling procedures? If they were not notified upon implementation of those procedures, why not?
5. What precisely are the case handling procedures involved in the 15 days' advance notice provision? How do those procedures ensure that the employer does not "cover up" violations before a full investigation can be conducted?
6. How is Wal-Mart employee confidentiality protected in the handling of cases under the 15 days' advance notice provision? How effective are those protections, if any?
7. How does the Wal-Mart compliance agreement and the way in which it was reached compare to either the prosecution of similarly situated companies with similar labor records by the Department or compliance agreements with similarly situated companies with similar labor records?

8. Who negotiated the Wal-Mart agreement for both the Department of Labor and Wal-Mart? Who approved the agreement? Who offered any advance notice provisions? What were those offers? Was anyone outside of the Department of Labor, other than Wal-Mart officials and representatives, involved in the negotiation, formulation, or suggestion of this compliance agreement in any way? If so, who and in what way?

9. What contact, if any, has the Department of Labor or any other United States government employees, officials, or agents had with Wal-Mart concerning the disclosure, publication, or other dissemination of this settlement or its terms?

I ask that you meet with my staff to discuss this matter further. Your immediate attention to this investigation is appreciated.

Sincerely,

A handwritten signature in black ink that reads "George Miller". The signature is written in a cursive style with a large, looping "G" at the beginning.

GEORGE MILLER

Senior Democratic Member